

Federal Communications Commission

DA 00-2420

2000 OCT 31 PM 4:25
 Before the
 Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
)	
(Huachuca City, Arizona)	MM Docket No. 00-208
)	RM-9977
)	
(Rio Rico, Arizona))	MM Docket No. 00-209
)	RM-9978
)	
(Sonoita, Arizona))	MM Docket No. 00-210 ✓
)	RM-9979
)	
(Pine Level, Alabama))	MM Docket No. 00-211
)	RM-9993

NOTICE OF PROPOSED RULE MAKING

Adopted: October 18, 2000

Released: October 27, 2000

Comment Date: December 18, 2000

Reply Date: January 2, 2001

By the Chief, Allocations Branch

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

(1) MM Docket No. 00-208, RM-9977**Petitioner:** Santa Cruz Broadcasting

c/o Susan A. Marshall, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street
11th Floor
Arlington, VA 22209

Proposal: Allot Channel 232A to Huachuca City, Arizona (pop. 1,782),¹ as that locality's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Huachuca City, Arizona	--	232A

Coordinates: 31-32-30 NL; 110-23-20 WL

Additional Information: The proposed allotment requires a site restriction 10.9 kilometers (6.8 miles) southwest of the community to avoid a short-spacing to Station KXXQ, Channel 231C1, Safford, AZ, at coordinates 32-39-01 NL; 109-50-53 WL. Petitioner is requested to submit additional information to demonstrate that Huachuca City is a *bona fide* community for allotment purposes. Additionally, Huachuca City is located within 320 kilometers (199 miles) of the U.S.-Mexico border and the allotment, as proposed, will result in short spacings towards the following three Mexican allotments: Channel 232A, Sasabe, Sonora; Channel 232B, Magdalena, Sonora; and Channel 233A, Naco, Sonora. Therefore, concurrence by the Mexican government in the proposed allotment of Channel 232A at Huachuca City, as a specially negotiated short-spaced allotment must be obtained.

FCC Contact: Nancy Joyner, (202) 418-2180.

(2) MM Docket No. 00-209; RM-9978**Petitioner:** Santa Cruz Broadcasting

c/o Susan A. Marshall, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street
11th Floor
Arlington, VA 22209

¹ Population figures reported herein were taken from 1999 U.S. Census data.

Proposal: Allot Channel 300A to Rio Rico, (pop. 1,407), as that locality's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Rio Rico, Arizona	--	300A

Coordinates: 31-24-00 NL; 110-57-30 WL

Additional Information: No site restriction is required for this proposal. Petitioner is requested to provide additional information to demonstrate that Rio Rico is a *bona fide* community for allotment purposes. Additionally, Rio Rico is located within 320 kilometers (199 miles) of the U.S.-Mexico border and the allotment, as proposed, will result in short spacings towards the following two Mexican allotments: Channel 300B, Caborca, Sonora; and Channel 300B, Agua Prieta, Sonora. Therefore, concurrence by the Mexican government in the allotment, as a specially negotiated short-spaced allotment must be obtained.

FCC Contact: Nancy Joyner, (202) 418-2180.

(3) MM Docket No. 00-210; RM-9979

Petitioner: Santa Cruz Broadcasting

c/o Susan A. Marshall, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street
11th Floor
Arlington, VA 22209

Proposal: Allot Channel 263A to Sonoita, Arizona,² as that locality's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Sonoita, Arizona	--	263A

Coordinates: 31-40-46 NL; 110-39-17 WL

Additional Information: No site restriction is required for this proposal. Petitioner is requested to provide additional information to demonstrate that Sonoita is a *bona fide* community for allotment

² Petitioner states that according to the Sonoita Chamber of Commerce, Sonoita, and its surrounding area, contains a population of 2,400 persons. However, the Rand McNally Commercial Atlas and Marketing Guide (2000 Ed.) attributes Sonoita with a population of 100 persons. Therefore, petitioner is requested to provide official documentation of the population it attributes to Sonoita.

purposes. Additionally, Sonoita is located within 320 kilometers (199 miles) of the U.S.-

Mexico border and the allotment, as proposed, will result in a short spacing towards Channel 263B in Magdalena, Sonora, Mexico. Therefore, concurrence by the Mexican government in the allotment, as a specially negotiated short-spaced allotment must be obtained

FCC Contact: Nancy Joyner, (202) 418-2180.

(4) MM Docket No. 00-211; RM-9993

Petitioner: Susannah Lane Hodges

John A. Borsari, Esq.
c/o Borsari & Assoc., PLC
P.O. Box 29
Arlington, VA 22210

Proposal: Allot Channel 248A to Pine Level, Alabama,³ as that locality's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Pine Level, Alabama	--	248A

Coordinates: 32-04-04 NL; 86-03-35 WL

Additional Information: No site restriction is required for this proposal. Petitioner is requested to provide additional information to demonstrate that Pine Level is a *bona fide* community for allotment purposes.

FCC Contact: Nancy Joyner, (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference only the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

³ Petitioner states that Pine Level contains a population of 400 persons according to the 1990 U.S. Census. However, Pine Level is not listed in the Census as a separate population grouping. Rather, it is listed therein as a county subdivision. See, *Cloverdale, Montgomery and Warrior, Alabama*, 10 FCC Rcd 13630 (1995). Further, the Rand McNally Commercial Atlas and Marketing Guide (2000 Ed.) records Pine Level as a geographical location containing a population of 300 persons. Therefore, petitioner is requested to provide official documentation of the population it attributes to Pine Level.

4. Interested parties may file comments on or before December 18, 2000, and reply comments on or before January 2, 2001, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b) and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comment herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, 445 Twelfth Street, SW.; TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257) at its headquarters, 445 Twelfth Street, SW., Washington, D.C.